

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D.C. 20554

In the Matter of

Schools and Libraries Universal Service  
Support Mechanism

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CC Docket No. 02-6

**COMMENTS OF BLACKBOARD INC.**

Blackboard Inc. (“Blackboard”), by its attorneys, hereby submits comments in response to the Commission’s Notice of Proposed Rulemaking (“Notice”) in the above-captioned proceeding.<sup>1</sup> The Notice solicits comment on whether certain services should be designated as eligible for funding under the schools and libraries universal service support mechanism (also known as the “E-rate program”). The specific services that the Commission has identified as under consideration for addition to the E-rate “Eligible Services List” (“ESL”) include “telephone broadcast messaging.”

Blackboard (through a predecessor company) has been urging the Commission to add telephone broadcast messaging to the ESL since 2004; thus, we are pleased to lend our support to this aspect of the Notice.<sup>2</sup> For the reasons stated in our previously filed comments, as well as for the reasons stated herein, the Commission should promptly act to ensure that educators have access to E-rate funding for this important communications service for Funding Year 2009.

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<sup>1</sup> 73 Fed. Reg. 48,352 (Aug. 19, 2008).

<sup>2</sup> See notes 5-6 *infra*.

## INTRODUCTION AND BACKGROUND

In January 2008, Blackboard, one of the nation's leading providers of educational enterprise technology, acquired the NTI Group, Inc. ("NTI"), a privately-held company that, through its "Connect" family of services, is a leader in the provision of "time-sensitive" voice and text mass messaging and notification solutions for educational and governmental organizations.

One of these time-sensitive notification solutions, known as "Connect-ED<sup>®</sup>," is designed specifically for and is utilized by thousands of K-12 schools and school districts nationwide.<sup>3</sup> Connect-ED<sup>®</sup> is a multi-modal service that employs telephone broadcast messaging to enable school administrators to use the public switched telephone network and Internet as a rapid and efficient interactive message distribution platform on which they can record, schedule, send, and track personalized voice and/or text messages (including both e-mail and SMS) to parents, students, faculty, and/or other staff in a matter of minutes.<sup>4</sup>

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<sup>3</sup> Additional information regarding the Connect-ED<sup>®</sup> service can be found at <http://www.blackboardconnect.com/products/connect-ed.asp>.

<sup>4</sup> To make use of a telephone broadcast messaging service such as Connect-Ed<sup>®</sup>, a school administrator typically calls a toll-free number and records an outgoing voice message. The administrator then accesses a secure website maintained by the service provider (or, in an emergency where Internet access is not available, connects with the system via a toll-free number) and selects the message recipients and schedules the time and date for delivery of the message. Once the message is delivered, the service promptly provides detailed feedback to the school via e-mail, identifying whether a message was received "live" or by an answering machine and allowing schools to resend "undelivered" messages and update contact lists to correct "bad" numbers. Password-protected on-line accounts also allow users to access detailed information such as reports that indicate recipient receptiveness by indicating the length of time recipients spend listening to messages.

Schools that use such telephone broadcast messaging services do not have to invest in or install any new hardware, software, or phone lines. The list of contact numbers and/or e-mail addresses is stored on servers maintained by the service provider and schools can easily import entire datasets and contact lists through highly secured systems. This type of service can allow schools to send messages to an entire school community or to tailor outgoing message delivery to specific groupings of students, parents, faculty or support staff.

The uses to which schools put telephone broadcast messaging broadly fall into three categories: attendance notification, community outreach regarding testing dates, schedule changes, and other school-related activities and events, and emergency communications. Examples of each of these uses include the following:

**Attendance Notification.** Daily attendance monitoring is an important but time-consuming task for school officials. Utilizing telephone broadcast messaging, a school can automatically download daily attendance information and deliver a recorded message to the parents of absent children early in the day based on daily reports taken from the school's own attendance system. As with any type of message, these attendance notification calls can be placed in multiple languages and formats to better serve the needs of more diverse school communities. A number of school districts using the Connect-ED<sup>®</sup> solution as an attendance notification communication tool have reported marked reductions in truancy.

**Community Outreach.** Communications between schools and parents are essential to getting parents motivated and involved in their children's

education. Telephone broadcast messaging can provide the cornerstone to a school's overall communications plan. It can enable school administrators to inform parents about upcoming field trips, test days, or district issues; give notice of last minute schedule changes; and substitute reliable voice messaging for "backpack stuffers" and direct mailings. One school district that used the Connect-ED<sup>®</sup> solution to send messages urging parents to participate in an annual survey conducted by an independent research firm as part of the district's assessment and planning program reported a significant increase in the level of responsiveness as compared to previous years. Additionally, telephone broadcast messaging services have two-way functionality that can enable school administrators to gather feedback from recipients, such as whether or not they will attend a particular school event or how they feel about a proposed change in school policy.

**Emergency Communication.** Of growing significance for many users of telephone broadcast messaging is its utility as an emergency communication tool. In the event of an unforeseen incident, telephone broadcast messaging can make it possible for school officials to notify parents and staff within minutes and to provide reassurance and updated information until the situation is resolved. For example, the principal of a California elementary school utilized Connect-ED<sup>®</sup> to distribute an urgent message to the school's entire database of parents and staff about a missing third-grader who failed to meet his parents after school at the appointed time and place. Within minutes of receiving the message, search teams were organizing and within an hour the student was found and safely reunited

with his parents. There are numerous other examples of schools using telephone messaging to inform parents and other members of the educational community of school lockdown events, weather emergencies, etc.

Citing the benefits that telephone broadcast messaging offers to schools in the performance of their educational mission, NTI in 2004 submitted comments in the annual “draft ESL” proceeding asking the Commission to add telephone broadcast messaging (referred to by NTI as “one-to-many telephone messaging” or “time-sensitive notification”) to the ESL or, in the alternative, to commence a rulemaking to make such changes in the Commission’s rules as deemed necessary to permit the inclusion of such services in the E-rate support program.<sup>5</sup> This request was repeated in 2005, 2006, and 2007.<sup>6</sup> Blackboard, as the successor to NTI, is pleased that the Commission has finally elected to act on these requests and to propose the addition of telephone broadcast messaging to the E-rate ESL. Blackboard strongly urges prompt action by the Commission to implement this proposal.

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<sup>5</sup> See Reply Comments of Notification Technologies, Inc., CC Docket No. 02-6 (filed Aug. 30, 2004).

<sup>6</sup> See Reply Comments of Notification Technologies, Inc. CC Docket No. 02-6 (filed Sept. 1, 2005); Reply Comments of the NTI Group, Inc., CC Docket No. 02-6 (Filed Aug. 14, 2006); Letter to Marlene Dortch, Secretary, Federal Communications Commission from Seth A. Davidson, Counsel for the NTI Group, Inc., CC Docket No. 02-6 (Oct. 18, 2007). NTI also urged the addition of telephone broadcast messaging to the E-rate ESL in the context of other proceedings, including the Commission’s review of the Emergency Alert System, its implementation of the WARN Act, and its review of recommendations of the Independent Panel on the Impact of Hurricane Katrina. (A representative of NTI, Mr. Billy Pitts, was appointed by Chairman Martin to both the Hurricane Katrina panel and to the WARN Act advisory group).

## DISCUSSION

The Commission should amend its rules to add telephone broadcast messaging to the E-rate ESL. Such an amendment would be consistent with the relevant statutory provisions and policy and with previous Commission decisions.

Specifically, sections 254(c)(3) and 254(h)(1)(B) of the Communications Act provide the Commission with broad authority to include “additional services” within the schools and libraries support program. In implementing these statutory provisions, the Commission has concluded that because the technology needs of the participants in the schools and libraries program are “complex and unique,” each participant “should have maximum flexibility to purchase the package of services they believe will most effectively meet their communications needs.”<sup>7</sup> Moreover, the Commission also has created a presumption that “reasonable requests for any supported service – over any technology platform – to be used by any school...while on school...property, shall be eligible for discounts.”<sup>8</sup>

Given these determinations, it is well within the Commission’s authority to amend its rules to add telephone broadcast messaging as an eligible service. The addition of

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<sup>7</sup> *Report and Order*, Federal-State Board on Universal Service, CC Docket 96-45, 12 FCC Rcd 8776, 9002, 9076 (1997). *See also Schools and Libraries Universal Service Support Mechanism*, Second Report and Order and Further Notice of Proposed Rule Making, 18 FCC Rcd 9202, 9207-08 (2003) (“*Schools and Libraries Second Report and Order*”).

<sup>8</sup> *Id.* at 9207. Typically, school officials using a telephone broadcast messaging service such Connect-ED<sup>®</sup> will record and schedule the delivery of messages from their offices on school property during regular school hours. While the system also allows school officials to record and schedule messages from remote locations, such remote use of the system plainly falls within the Commission’s finding that offsite uses of a service could be sufficiently “integral, immediate, and proximate to the education of students” to satisfy the requirement that the use be for an educational purpose. *Id.* at 9208.

telephone broadcast messaging to the ESL does not require the Commission to determine whether a telecommunications carrier is providing the service or to specifically categorize the service as a telecommunications service or information service. Rather, the Commission can, and should, take a flexible approach, as it has with its treatment of other services, such as voice mail.

In considering whether to add voice mail to the ESL, the Commission cited the “prevalence of and need for” the service as a tool for communications with school staff for educational purposes.<sup>9</sup> Noting that voice mail was an “integral” part of such communications, the Commission expressly found that including voice mail in the ESL would “enhance[] access to information services for schools and libraries by allowing meaningful communication among parents, teachers, and school and library administrators.”<sup>10</sup> Moreover, the Commission’s decision to recognize voice mail as a Priority One eligible service reflected in no small part its conclusion that voice mail is “used in conjunction with telecommunications services” and is “functionally equivalent” to e-mail.<sup>11</sup>

Telephone broadcast messaging services, when used by schools for community outreach, emergency notification, and attendance notification, unquestionably play an integral role in communications for “educational purposes” as required by the Act and the Commission’s rules. Congress has recognized again and again that improving

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<sup>9</sup> *Id.* at 9212.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* While telephone broadcast messaging services are not themselves “telecommunications services” or “information services” and can and frequently are provided by entities that are not telecommunications carriers, they are provided over (i.e., “in conjunction with”) telecommunications and Internet platforms.

communications between and among educators, students and parents is critical to the success of the schools' educational mission. For example, both the Enhancing Education Through Technology Act and the No Child Left Behind Act specifically focus on the importance of using technology to promote parent and family involvement in education and communication among students, parents, teachers, principals, and administrators.<sup>12</sup>

With respect to the importance of providing for urgent communications in school settings, Congress recently enacted, and the President signed, the Higher Education Act, which establishes grants for colleges and other institutions of higher education to support the development and implementation of communications systems for use in “contact[ing] students via cellular, text message, or other state-of-the-art communications methods” during emergency situations.<sup>13</sup> And in April, Representatives Bobby Rush (D-IL) and Fred Upton (R-MI) introduced the School Emergency Notification Deployment (“SEND”) Act which instructs the Commission to clarify that elementary and secondary schools may use E-rate support for “enhanced emergency notification services.”<sup>14</sup>

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<sup>12</sup> 20 U.S.C. § 2402(a)(8) (goals of the Enhancing Education Through Technology Act); *see also* Section 1118 of the No Child Left Behind Act, *codified* at 20 U.S.C. § 6318 (emphasizing role of communications in enhancing parental involvement in education).

<sup>13</sup> Higher Education Act, Pub. L. 110-315 (2008).

<sup>14</sup> H.R. 5806, introduced April 21, 2008. Communications between school officials and students, parents, and staff are crucial not only prior to and during disruptive events, but also in their aftermath. For example, a recent report by the National Governors Association Center for Best Practices regarding the nation's pandemic preparedness specifically identified public communications strategies for schools as one of the key areas in need of attention and improvement in order to ensure that, in the event of a pandemic, educational continuity can be maintained. *See* NGA Center for Best Practices, Issue Brief, “Pandemic Preparedness in the States” (Sept. 2008) *available at* <http://www.nga.org/Files/pdf/0809PANDEMICASSESSMENT.PDF>.

Just as voice mail was found to be “functionally equivalent” to e-mail, it is clear that telephone broadcast messaging is “functionally equivalent” to a number of services that the FCC already recognizes as eligible for E-rate support, including voice mail, paging, and e-mail. Telephone broadcast messaging services also are comparable to (and potential substitutes for) a variety of other eligible services, particularly homework hotline services and custom calling features, such as speed dialing.<sup>15</sup> And telephone broadcast messaging is “functionally equivalent” to text messaging, which is another of the services that the Notice proposes to add to the E-rate ESL<sup>16</sup>

Indeed, telephone broadcast messaging is not merely “functionally equivalent” to other eligible services; because of its multi-modal functionality and other features, telephone broadcast messaging represents a significant advancement over these services in terms of facilitating communications by and among educators, parents, and students.<sup>17</sup> For example, while voice mail allows schools to post messages that can be retrieved by

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<sup>15</sup> Also, as the Notice indicates, the Commission previously has found that E-rate support is available for wireless communications services when used by a bus driver while delivering students to and from school or by teachers and staff while accompanying students on off-campus field trips. Notice at ¶ 24, *citing Schools and Libraries Second Report and Order, supra*, 18 FCC Rcd at 9209, n. 28. Telephone broadcast messaging similarly can be used by school administrators to contact, virtually simultaneously and instantly, any or all bus drivers or off-campus staff via their existing cell phones, without the need for the installation of new, two-way communications hardware.

<sup>16</sup> In light of the fact that telephone broadcast messaging services can and do communicate via both voice and text, Blackboard also supports the inclusion of text messaging on the ESL.

<sup>17</sup> While the number of households with Internet service is increasing rapidly, it almost certainly continues to lag behind telephone penetration. Moreover, in light of the near ubiquity of cellular service, it is far more likely that school officials will be able to reach parents who are not at home or at work if they use a telephone broadcast messaging service rather than a service that relies only on e-mail or text messages.

parents, students, and staff by calling in to a designated phone number, such an approach places the burden on hundreds if not thousands of individual callers. In contrast, telephone broadcast messaging allows a single, designated school official to initiate calls to the intended recipients of the information. In addition, telephone broadcast messaging minimizes the risk that, in a situation requiring the immediate dissemination of information, the school's phone lines will be overwhelmed by a flood of simultaneous calls seeking information.

Another advantage offered by telephone broadcast messaging services over other forms of mass notification is that telephone broadcast messaging services typically offer multiple redundancies to ensure reliable and effective communications. These include carrier redundancy, power redundancy, and database redundancy.<sup>18</sup> As noted previously, telephone broadcast messaging services also can provide schools with an interactive messaging capability, allowing educators not only to create and send messages to members of the school community, but also to receive information in response.

In short, telephone broadcast messaging represents a quantum leap forward over the notification tools available to schools in the past. Absent E-rate support, however, many schools will not be able to take advantage of the technological benefits of telephone broadcast messaging and instead will continue to rely on outmoded, less effective and less reliable notification methods such as back pack messages, phone trees, and auto-

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<sup>18</sup> Carrier redundancy" can be achieved by utilizing the networks of several interexchange carriers and VoIP providers. "Power redundancy" and "database redundancy" can be achieved by deploying systems at multiple sites straddling the nation's three power grids, thereby ensuring constant access to power and allowing data to be shifted from one geographic area to another in the event of a power failure or other disruption to a data center.

dialers.<sup>19</sup> Preventing the perpetuation of such distinctions between “have” and “have not” schools with respect to communications technology is the fundamental goal of the E-rate program.

In February 2006, representatives of over two dozen school districts from around the nation wrote to Senators Stevens and Inouye urging the recognition of telephone broadcast messaging as an eligible service under the E-rate program.<sup>20</sup> Since that time, interest in telephone broadcast messaging has continued to grow by leaps and bounds.<sup>21</sup> Adding telephone broadcast messaging to the ESL will provide schools with access to a service that can provide them with improved messaging performance without the cost of installing and maintaining additional phone lines, servers, and other equipment for each school location. Whether it is utilized as a substitute for, or as a supplement to, other eligible services, telephone broadcast messaging should be recognized being entitled to E-rate support in its own right.

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<sup>19</sup> A standard 48-port auto-dialer system will take over eight and one-half hours to send a 30-second message to 50,000 people. In contrast, an advanced telephone broadcast messaging service can deliver that same message to tens of thousands of recipients in a matter of minutes. And unlike an auto-dialer system, telephone broadcast messaging services with interactive capability can provide schools with reports identifying whether or not the message was received by a live person, an answering machine or did not go through.

<sup>20</sup> See Reply Comments of the NTI Group, Inc., CC Docket No. 02-06 (filed August 14, 2006). For the Commission’s convenience, a copy of the referenced letter is attached hereto.


<sup>21</sup> As of the date of this filing, over 200 schools and school districts have filed comments in the instant proceeding endorsing the addition of telephone broadcast messaging to the E-rate ESL.

## **CONCLUSION**

Blackboard submits that the Commission should amend its rules to specify that telephone broadcast messaging services are eligible for E-rate support under one or more of the ESL's existing categories.

Respectfully submitted,

**BLACKBOARD INC.**

By:   
Seth A. Davidson

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Its Attorneys

Dated: September 18, 2008

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The Honorable Ted Stevens  
Chairman  
Committee on Commerce, Science and Transportation  
United States Senate  
522 Hart Senate Office Building  
Washington, DC 20510

The Honorable Daniel K. Inouye  
Ranking Member  
Committee on Commerce, Science and Transportation  
United States Senate  
722 Hart Senate Office Building  
Washington, DC 20510

February 27, 2006

Dear Chairman Stevens and Senator Inouye:

We are writing to you on behalf of School Districts across the country to urge you to include, as part of Universal Service Fund reform legislation, provisions clarifying that one-to-many, telephone-based "time-sensitive notification" ("TSN") services are eligible services under the Schools and Libraries support mechanism. Such services are an essential tool for improving communications between and among educators, students, and parents and thus are integral to the educational mission underlying the Schools and Libraries program.

It has been our experience that effective communications between schools, students, and parents play a critical role in motivating families to become involved in their children's education. Moreover, studies demonstrate that parental involvement directly correlates to a child's educational success. While in the past, the available tools for communications between schools and families were limited and cumbersome, advances in technology have greatly enhanced the ability for schools to reach out to families and students, with direct educational benefits.

In particular, over 5,000 schools and districts across the country are currently using a one-to-many TSN service called Connect-ED, a service provided by The NTI Group, Inc. (NTI). This particular one-to-many TSN service, in use for over five (5) years, is a hosted solution that provides a means of rapidly and effectively communicating with students, parents, and faculty on a daily basis.

Briefly described, the Connect-ED service allows schools to deliver voice messages to parents, students, faculty and/or other staff in a matter of minutes. These voice messages also can be sent to recipients via e-mail. In order to use the Connect-ED service, an authorized school official simply calls a toll-free number and records the outgoing voice message. The official then accesses a secure website maintained by NTI (or connects with the system via a toll-free number) and selects the message recipients and schedules the time and date for delivery of the message. Once the message is delivered, the system provides detailed feedback to the school, identifying, for example, whether the message was received "live" or by an answering machine.

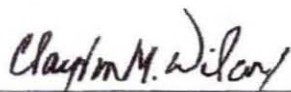
Thousands of Schools and School Districts use this type of one-to-many TSN service on a daily basis for attendance monitoring. They are able to automatically download daily attendance information and deliver a recorded message to the parents of absent students first thing each day. We have seen a marked reduction in truancy as a direct result of our use of this technology.

Schools and School Districts also use these types of services for community outreach. These services are used to inform parents about upcoming events, test days, or other matters of interest. The delivery of voice-messages via telephone is a far more effective means of communicating with parents than "backpack stuffers" or "phone trees." And in the event of an emergency, such as a school lockdown, the service has the capability of contacting every parent within minutes to provide them accurate information about the welfare of their children and instructions as to where and when to pick up their children in the event school is cancelled.

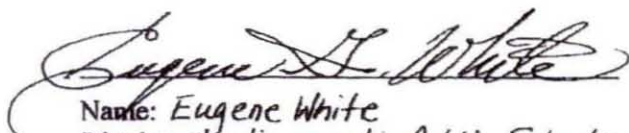
The above examples are but a few of the ways in which a one-to-many TSN service can contribute to the fulfillment of a school's educational mission. Such services require no new hardware, software, or phone lines and are functionally equivalent to, and in many respects superior to, e-mail and voice mail services. Yet, while e-mail and voice mail are eligible services under the schools and libraries program, the FCC has, without explanation, rejected repeated requests that it add one-to-many TSN services to the eligible services list.

When it first created the Schools and Libraries program, Congress recognized that schools should have the flexibility to deploy services that most effectively meet their communications needs. Unfortunately, in implementing the program the FCC has been unable or unwilling to keep up with technological advancements such as the development of one-to-many TSN services. Such services can serve as the cornerstone to a school's overall communications plan and we strongly urge you to support efforts to specifically include them as an eligible service under the Schools and Libraries program.

Respectfully,



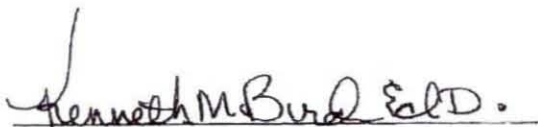
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District: PINELLAS COUNTY PUBLIC SCHOOLS  
City and State: LARGO, FL



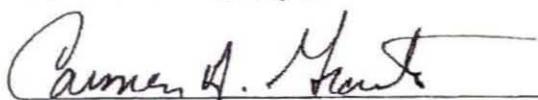
Name: Eugene White  
District: Indianapolis Public Schools  
City and State: Indianapolis, IN

Cc: House Committee on Energy and Commerce  
Senate Committee on Commerce, Science and Transportation  
House Committee on Education and the Workforce  
Senate Committee on Health, Education, Labor and Pensions

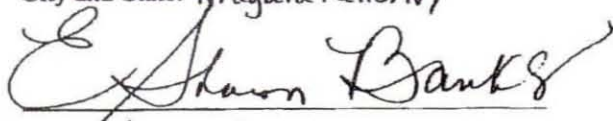
(Additional signatures attached on the following pages)



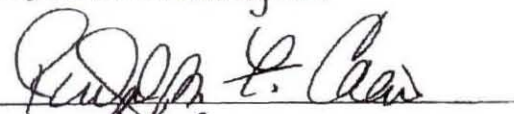
Name: Kenneth Bird  
District: Westside Community Schools  
City and State: Omaha, NE



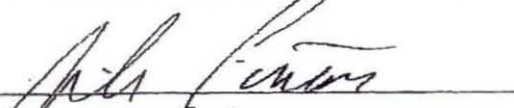
Name: Carmon Granto  
District: Niagara Falls Public Schools  
City and State: Niagara Falls, NY



Name: Sharon Banks  
District: Lansing School District  
City and State: Lansing, MI



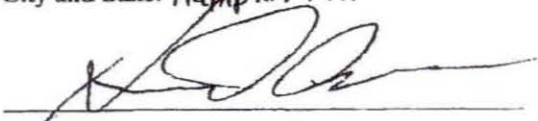
Name: Rudy Crew  
District: Miami-Dade County Public Schools  
City and State: Miami, FL



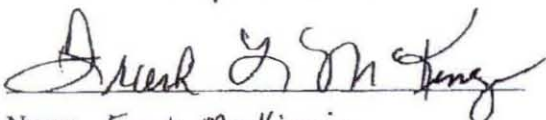
Name: Mike Easton  
District: Escondido USC  
City and State: Escondido, CA



Name: PAT Russo  
District: Hampton City Schools  
City and State: Hampton, VA



Name: Howie Crouse  
District: Indian Prairie District 204  
City and State: Naperville, IL



Name: Frank McKinzie  
District: Elmwood Park CUSD #401  
City and State: Elmwood Park, IL

Barbara M. Pulliam Ed.D.

Name: Barbara Pulliam  
District: Clayton County Public Schools  
City and State: Jonesboro, GA

Mary P. Leiker Ed.D.

Name: MARY Leiker  
District: Kentwood Public Schools  
City and State: Kentwood, MI

G. Garcia

Name: George Garcia  
District: Boulder Valley Public School District  
City and State: Boulder, CO

Howard Hinsley

Name: Howard Hinsley  
District: Cartersville City Schools  
City and State: Cartersville, GA

Doris McEwan

Name: Doris McEwan  
District: Clover Park School District  
City and State: Lakewood, WA

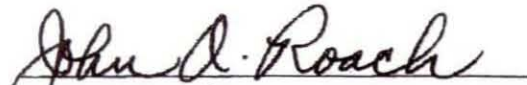
Bennis L. Peterson

Name: Bennis Peterson  
District: Minnetonka School District #276  
City and State: Minnetonka, MN

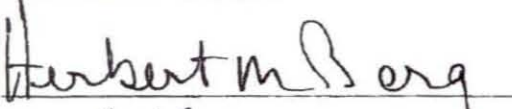
Cesare Caldaresi

Name: Cesare Caldaresi  
District: Retired Superintendent  
City and State: Fountain Hills, AZ

Name:  
District:  
City and State:



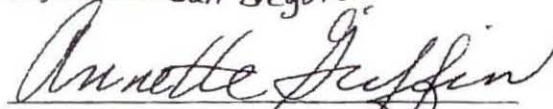
Name: John Roach  
District: Retired Superintendent  
City and State: Nevada



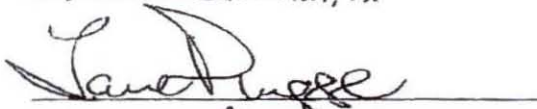
Name: Herb Berg  
District: Kershaw County School District  
City and State: Camden, SC



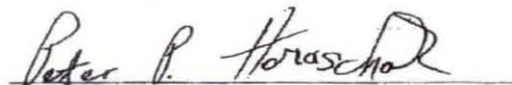
Name: Rudy Castruita  
District: San Diego County Office of Education  
City and State: San Diego, CA



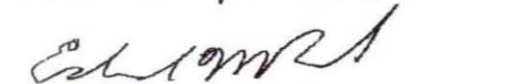
Name: Annette Griffin  
District: Carrollton-Farmers Branch ISD  
City and State: Carrollton, TX



Name: Lane Plugge  
District: Iowa City CSB  
City and State: Iowa City, IA



Name: Peter Horoschak  
District: South Orange-Maplewood School District  
City and State: Maplewood, NJ



Name: Ed Brand  
District: San Marcos Unified School District  
City and State: San Marcos, CA



Name: Stan Scheer  
District: Littleton Public Schools  
City and State: Littleton, CO